

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO: 0:22-cv-61553-WPD

CRUZ VALDIVIESO FIGUERA,

Plaintiff,

v.

ALL VIP CARE, INC. and LIZ VELAZQUEZ
MCKINNON,

Defendants.

**ORDER ADOPTING AND APPROVING REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE; OVERRULING OBJECTIONS; GRANTING IN PART
AND DENYING IN PART MOTIONS FOR ATTORNEY'S FEES AND COSTS**

THIS CAUSE is before the Court upon Defendants' Motion for Bill of Costs [DE 149]; Plaintiff's Bill of Costs and Motion for an Award of Attorney's Fees and Costs [DE's 133, 159]; and the August 15, 2024 Report and Recommendation of United States Magistrate Judge Patrick M. Hunt (the "Report") [DE 175]. The Court has conducted a *de novo* review of the Report [DE 175], Plaintiff's Objections [DE 178], Defendants' Objections [DE 181], and the record herein. The Court is otherwise fully advised in the premises.

A party seeking to challenge the findings in a report and recommendation of a United States Magistrate Judge must file "written objections which shall specifically identify the portions of the proposed findings and recommendation to which objection is made and the specific basis for objection." *Macort v. Prem, Inc.*, 208 F. App'x 781, 783 (11th Cir. 2006) (quoting *Heath v. Jones*, 863 F.2d 815, 822 (11th Cir. 1989)). "It is critical that the objection be sufficiently specific and not a general objection to the report." *Macort*, 208 F. App'x at 784 (citing *Goney v. Clark*, 749 F.2d 5, 7 (3d Cir. 1984)). If a party makes a timely and specific objection to a finding in the

report and recommendation, the district court must conduct a *de novo* review of the portions of the report to which objection is made. *Macort*, 208 F. App'x at 783-84; see also 28 U.S.C. § 636(b)(1). The district court may accept, reject, or modify in whole or in part, the findings or recommendations made by the Magistrate Judge. *Macort*, 208 F. App'x at 784; 28 U.S.C. § 636(b)(1).

Accordingly, the Court has undertaken a *de novo* review of the record and the Objections. Having carefully considered the Objections, the Court overrules the Objections. As Magistrate Judge Hunt noted, neither Plaintiff nor Defendants filed a response to the other party's motion. *See* [DE 159] at pp. 1, 8, 14. Under Eleventh Circuit precedent, this Court is not obligated to consider a party's argument which was not raised before the Magistrate Judge and is articulated for the first time in the Objections. *Williams v. McNeil*, 557 F.3d 1287, 1292 (11th Cir. 2009). As such, the Court exercises its discretion not to consider the merits of Plaintiff and Defendants' arguments, all of which were never raised in the first instance to Magistrate Judge Hunt.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The Report [DE 175] is hereby **ADOPTED** and **APPROVED**.
2. Both parties Objections [DE's 178, 181] are **OVERRULED**.
3. Plaintiff's Bill of Costs and Motion for an Award of Attorney's Fees and Costs [DE's 133, 159] are hereby **GRANTED IN PART AND DENIED IN PART**.
4. Plaintiff is hereby awarded attorney's fees in the amount of \$145,067.50 and costs in the amount of \$4,006.41, for a total award of \$149,073.91.
5. Defendants' Motion for Bill of Costs [DE 149] is hereby **GRANTED IN PART AND DENIED IN PART**.
6. Defendant is hereby awarded costs in the amount of \$1,869.41.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida,
this 4th day of September, 2024.

A handwritten signature in black ink, reading "William P. Dimitrouleas", written over a horizontal line.

WILLIAM P. DIMITROULEAS

United States District Judge

Copies to:
Magistrate Judge Hunt
Counsel of Record